

08-CV-01108-CMP

FILED
LODGED
ENTERED
RECEIVED

JUL 22 2008 LK

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DANIEL WAKGIRA,

Plaintiff,

vs.

THE CITY OF SEATTLE, a Municipal
Corporation and SEATTLE POLICE OFFICER
A. L. JONES, and JOHN DOE SEATTLE
POLICE OFFICERS 1-5,

Defendants.

No. **C 08-1108** *JUR*

COMPLAINT FOR DAMAGES

JURY DEMAND

Plaintiff Daniel Wakgira alleges as follows:

I. JURISDICTION AND VENUE

1. This action is brought pursuant to 42 U.S.C. §1983 for violations of the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, and various state and common law claims. Jurisdiction is conferred upon this court pursuant to 28 U.S.C. §1343, et seq.

2. There exists a common nucleus of operative facts as to plaintiff's state and federal claims. As a consequence, this court has pendent jurisdiction over the state claims pursuant to 28

COMPLAINT FOR DAMAGES - 1

ORIGINAL

Law Offices of
Lembhard G. Howell, P.S.
Pacific Building, Suite 2105
Seattle, Washington 98104
(206) 623-5296

Sum. ISS SEA 19272

1 U.S.C. §1367.

2 **II. PARTIES**

3 3. Plaintiff Daniel Wakgira is a resident of King County, Washington.

4 4. Defendant CITY OF SEATTLE is a governmental entity with the right to sue and
5 be sued in its own name and stead.

6 5. Defendant A. L. JONES is and was at all relevant times, a Seattle Police officer
7 acting within the scope of his employment with the City of Seattle.

8 6. Defendants John Doe Police Officers 1-5 are employees of Defendant Seattle
9 Police Department. The actions, inactions, and decisions of Defendants John Does 1-5 were
10 made with the knowledge, permission, and consent of their employer, and were made within the
11 scope of their employment with the Defendant City of Seattle as police officers and at all times
12 material were acting within the scope of their employment. Plaintiff is not aware of the true
13 names of said John Doe Police Officers and their true names will be substituted when
14 discovered.

15 **III. CLAIM FOR DAMAGES**

16 7. A Claim for Damages was properly filed with the defendant CITY OF SEATTLE
17 pursuant to Washington law. More than sixty (60) days have elapsed since the filing of that
18 claim. Attached hereto as Exhibits A is plaintiff's claim for damages, which by this reference is
19 incorporated in this complaint.

20 **IV. JURY DEMAND**

21 8. Pursuant to Fed. R. Civ. P. 38, plaintiff hereby demands trial by jury.

22 **V. BACKGROUND FACTS**

10. Plaintiff stopped at the intersection and waited to be waived on by the Seattle Police officers who were directing traffic at the intersection. An officer waived plaintiff forward so plaintiff started to drive forward.

11. Then defendant Seattle Police officer A. L. JONES rushed toward plaintiff's car and struck plaintiff in the head numerous times with his large flashlight, lacerating plaintiff's scalp and causing him to bleed. Defendant A. L. JONES struck plaintiff with such force that he broke the flashlight on plaintiff's head.

11 12. Defendant A. L. JONES arrested plaintiff alleging "Failure to obey SMC
12 11.59.010 & Reckless driving SMC 11.56.120." Plaintiff was falsely arrested on these charges
13 and taken to jail.

14 13. Plaintiff was maliciously prosecuted on these charges and the case was dismissed.
15 Plaintiff had to pay for an attorney to defend himself against the charges.

16 14. A complaint was filed with the Office of Professional Accountability. Defendant
17 JONES was exonerated. This procedure was misleading, designed to give citizens a sense that
18 there was some fair procedure to investigate police complaints when in fact there was not.

19 15. John Doe Seattle Police Officers 1-5 otherwise participated in tortious conduct
20 towards plaintiff.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (OUTRAGE)

16. Plaintiff realleges the previous paragraphs.

1 17. The actions of defendants constituted intentional infliction of emotional distress.

2 18. As a result of defendants' tortious conduct, plaintiff suffered injury and severe
3 emotional distress.

4 **VII. ASSAULT AND BATTERY**

5 19. Plaintiff realleges the previous paragraphs.

6 20. The actions of defendants constituted assault and battery.

7 **VIII. FALSE ARREST**

8 21. Plaintiff realleges the previous paragraphs.

9 22. The actions of defendants constituted false arrest. Plaintiff was arrested without
10 probable cause.

11 **IX. MALICIOUS PROSECUTION**

12 23. Plaintiff realleges the previous paragraphs.

13 24. The actions of defendants constituted malicious prosecution.

14 **X. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

15 25. Plaintiff realleges the previous paragraphs.

16 26. The actions of defendants constitute negligent infliction of emotional distress.

17 **XI. VIOLATION OF 42 U.S.C. § 1983**

18 27. Plaintiff realleges the previous paragraphs.

19 28. Defendant A. L. JONES' conduct violated Plaintiff's civil rights under 42 U.S.C.
20 § 1983 because his actions violated the U.S. Constitution.

21 **XII. CITY VIOLATED 42 U.S.C. § 1983**

22 29. Plaintiff realleges the previous paragraphs.

23 30. Defendant City of Seattle violated 42 U.S.C. § 1983 when it showed a deliberate
24

1 indifference to plaintiff's rights and ratified the conduct of defendant A. L. JONES. Further, it
2 tolerated a pattern and practice of police officers violating rights of citizens.

3 31. As a result of defendants' violation of 42 U.S.C. § 1983 plaintiff suffered injury,
4 emotional distress, severe pain, humiliation, embarrassment, and diminished respect in the eyes
5 of his peers and his subordinates.

6 **REQUEST FOR RELIEF**

7 Plaintiff requests that the court enter judgment against each of the defendants as follows:

- 8 a. Awarding plaintiff special damages in such amount as shown at trial,
9 b. Awarding plaintiff general damages in such amount as shown at trial.
10 c. Awarding plaintiff costs and attorneys' fees,
11 d. Awarding plaintiff punitive damages against defendant A. L. Jones.
12 e. Such additional relief which the court finds equitable and just.

13 Dated this 21st day of July, 2008.

14 Law Offices of Lembhard G. Howell, P.S.

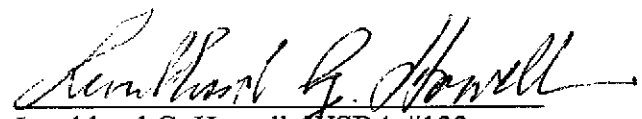
15 
16 Lembhard G. Howell, WSBA #133
17 Attorney for Plaintiff
18
19
20
21
22
23
24

EXHIBIT A

NOTE:
Type or Print Legibly.
See instructions on back.

City of Seattle
CLAIM FOR DAMAGES

CITY USE ONLY

CLAIM NUMBER

DATE FILED

CLAIMANT	NAME (FIRST - M. - LAST OR BUSINESS NAME) Daniel Wakgira	HOME PHONE Call attorney
HOME ADDRESS (NUMBER - STREET - CITY - STATE - ZIP) 7605 S. Mission Drive, Seattle, WA 98178		BUS. PHONE (206) 623-5296
ACCIDENT/LOSS	DATE 8/30/07 TIME 10:25 p.m.	CELL PHONE
LOCATION/SITE	BE VERY SPECIFIC: STREETS, ADDRESSES, etc. Intersection of 4th Avenue S. and South Royal Brougham St., Seattle, WA	DIAGRAM Use if this will help you locate or describe what happened
WHAT HAPPENED? DESCRIBE IN YOUR OWN WORDS HOW THIS LOSS OCCURRED AND WHY YOU BELIEVE THE CITY IS RESPONSIBLE. Claimant was driving his car home from a Seattle Seahawks game. He pulled up to the intersection at 4th Ave. S. and S. Royal Brougham St. and stopped and waited to be waived on by the Seattle Police officers who were directing traffic at the intersection. An officer waived claimant forward so claimant started to drive forward. Then Seattle Police officer A.L. Jones rushed toward claimant's car and struck claimant in the head numerous times with his large flashlight, lacerating claimant's scalp and causing him to bleed. Officer Jones struck claimant with such force that he broke the flashlight on claimant's head. Officer Jones arrested claimant alleging "Failure to obey SMC 11.59.010 & Reckless driving SMC 11.56.120." Claimant was falsely arrested on these charges and taken to jail. He was maliciously prosecuted and the case was dismissed.		
WAS YOUR PROPERTY DAMAGED? (i.e. Home, Auto, Personal Property) <input checked="" type="checkbox"/> YES IF SO, THEN FULLY DESCRIBE - SUCH AS AGE, MAKE, MODEL, CONDITION, VALUE, OR EXTENT OF DAMAGE. <input type="checkbox"/> NO Claimant's clothing (a new Seahawks jersey, approximate value \$125, and his shorts) were drenched with blood and ruined.		CITY DEPT? SPD CITY EMPLOYEE? A.L. Jones CITY VEHICLE NUMBER, LICENSE, etc.
WERE YOU INJURED? <input checked="" type="checkbox"/> YES IF YES, THEN COMPLETE THE FOLLOWING: <input type="checkbox"/> NO DESCRIBE YOUR INJURY (IDENTIFY YOUR DOCTOR(S)) Claimant was treated by Seattle Fire Department EMTs and was treated at the Providence Hospital Emergency Room for lacerations above his eye caused by officer Jones. The lacerations required 8 stitches. Claimant suffered headaches after the incident.		
DATE OF BIRTH	11/22/1950	WAGE LOSS <input checked="" type="checkbox"/> YES Missed 5 days \$200/day <input type="checkbox"/> NO IF YES, THEN RATE OF PAY
KIND OF WORK	Beverage Manager	EMPLOYER Emerald Downs
AMOUNT CLAIMED	IF UNKNOWN, THEN ENTER "UNKNOWN"	\$ Undetermined
SIGNATURE OF CLAIMANT (AND TITLE, IF A BUSINESS) Represented by: Law Offices of Lembhard G. Howell, P.S. 720 Third Ave., Ste. 2105, Seattle, WA 98104 (206) 623-5296		
I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. EXECUTED this 16th day of April, 2008, at Seattle, King County, Washington. X <i>[Signature]</i>		

PRESENTATION OF A CLAIM

This official City of Seattle document must be signed, and mailed or delivered.

Mail to:
CITY CLERK'S OFFICE
PO BOX 94728
Seattle, WA 98124-4728

Deliver to:
CITY HALL
600 Fourth Avenue, 3rd Floor
Between James St. & Cherry St.

An adjuster will be assigned to your claim after it is filed with the City Clerk. **It is to your advantage** to present with your claim relevant supporting documents (receipts, canceled checks, estimates, billings, etc.) or additional evidence (photos, diagrams, etc.). All documents are subject to the Washington State Public Disclosure Statutes. Additional claim forms can be downloaded from the Risk Management website. (<http://www.seattle.gov/riskmanagement>)

EXPLANATION OF CLAIMS PROCESS

The day after your Claim is filed in the City Clerk's Office, it is delivered to the Claims Section. The Claim is then assigned to an adjuster who will conduct an investigation which includes a written response from the involved department. The Claims Section will then evaluate and recommend a reasonable resolution of your Claim, which will be one of three alternatives:

1. Pay a sum of money.
2. Tender - transfer to another party or entity.
3. Deny - where there is no evidence of any negligence by the City.

If you have any questions, then do not hesitate to call the Claims Section at 684-8213.